



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TJR

Docket No: 6779-99

1 May 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 18 April 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, and applicable statutes, regulations, and policies.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found you reenlisted in the Navy on 27 March 1979 after three years of prior honorable service. Your record reflects that you served for 18 months without incident but on 17 September 1980 you received nonjudicial punishment (NJP) for absence from your appointed place of duty and were awarded reduction to paygrade E-4, which was suspended for three months, and forfeitures totalling \$100. Shortly thereafter, on 2 December 1980, you were convicted by special court-martial (SPCM) of failure to go to your appointed place of duty and disrespect. You were sentenced to reduction to paygrade E-3.

Your record further reflects that on 12 February 1982 you were convicted by summary court-martial (SCM) of possession of marijuana. You were sentenced to a \$569 forfeiture of pay and restriction to 60 days. On 15 April 1982 you received NJP for three specifications of disrespect. The punishment imposed was reduction to paygrade E-3 and a \$200 forfeiture of pay.

Subsequently, you were notified of pending administrative separation action by reason of misconduct due to frequent

involvement of a discreditable nature with military authorities. At this time you waived your rights to consult with legal counsel, present your case to an administrative discharge board, and to submit a written statement in rebuttal to the separation. On 5 May 1982 your commanding officer recommended you be issued an other than honorable discharge by reason of misconduct due to frequent involvement of a discreditable nature with military authorities. The discharge authority approved the foregoing recommendation and directed your commanding officer to issue you an other than honorable discharge. On 28 May 1982 you were so discharged.

The Board, in its review of your entire record and application, carefully weighed all potentially mitigating factors, such as your prior honorable service and your contention that you would like your discharge upgraded. The Board also considered your contention that your discharge was previously upgraded. However, the Board concluded these factors were not sufficient to warrant recharacterization of your discharge given the serious nature of your frequent misconduct. Further, there is no indication in the record that your discharge was ever been upgraded. Given all the circumstances of your case, the Board concluded the your discharge was proper and no change is warranted. Accordingly, your application has been denied.

The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director